

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition No.: 12-012-16-1-5-00749-17
Petitioner: Phyllis J. (Riggle) Hoovler
Respondent: Clinton County Assessor
Parcel No.: 12-06-05-300-004.000-012
Assessment Year: 2016

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. Phyllis Hoovler filed a Form 130 with the Clinton County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA issued its final determination valuing the property as follows:

Year	Land	Improvements	Total
2016	\$ 39,500	\$ 29,500	\$ 69,000

2. Hoovler filed a Form 131 petition with the Board, electing to have her appeal heard under the Board’s small claims procedures. The Assessor did not ask to remove the matter from small claims.
3. On April 10, 2018, our designated Administrative Law Judge, Timothy Schuster, held a hearing in Indianapolis. Neither he nor the Board inspected the property.
4. Hoovler testified under oath as did Dana Myers, the Clinton County Assessor, and James (Jay) Morris from Ad Valorem Solutions, LLC.
5. The subject property is a mixed agricultural-residential property. It has a single-family home on seven acres located at 6101 North County Road 300 West.

Record

6. The following exhibits were submitted¹:

<u>Packet 1:</u>	Statement regarding conduct and ethics,
Petitioner's Exhibit A1:	Stipulation agreement from December 7, 2016 Board hearing,
Petitioner's Exhibit A2:	AdValorem contract cover letter with Clinton County,
Petitioner's Exhibit A3:	AdValorem client list,
Petitioner's Exhibit A4:	AdValorem reference letter,
Petitioner's Exhibit A5:	Indiana Department of Local Government Finance ("DLGF") conduct expectations page 2,
Petitioner's Exhibit A6:	Myers letter to Hoovler dated July 5, 2017,
Petitioner's Exhibit A7:	Proposed stipulation agreement for 2015,
Petitioner's Exhibit A8:	Email dated November 16, 2017 from Jay Morris to Hoovler,
Petitioner's Exhibit A9:	Email dated January 22, 2018 from Hoovler to Beth Hammer,
Petitioner's Exhibit A10:	Continuation of Hoovler-Hammer email,
Petitioner's Exhibit A11:	Letter dated January 26, 2018 from Chairman Holaday to Hoovler.
<u>Packet 2:</u>	Summary of Hoover's argument,
Petitioner's Exhibit 1:	Beacon Schneider aerial view of subject property,
Petitioner's Exhibit 2:	Owen township plat map,
Petitioner's Exhibit 3:	Indiana Constitution Article 10,
Petitioner's Exhibit 4:	Assessor operations manual, page 7,
Petitioner's Exhibit 5, 5A:	Assessor operations manual, page 14-15,
Petitioner's Exhibit 6:	Indiana Code § 6-1.1-37-2,
Petitioner's Exhibit 7:	Indiana Code § 6-1.1-37-1,
Petitioner's Exhibit 7A:	Assessor operations manual, page 10,
Petitioner's Exhibit 8:	2016 Form 11,
Petitioner's Exhibit 9:	2016 Form 130,
Petitioner's Exhibit 10:	2016 Clinton County, Owen Township trended improved sales data report,
Petitioner's Exhibit 11:	2016 Clinton County, Owen Township residential trending factors,
Petitioner's Exhibit 12A:	April 21, 2017 PTABOA minutes,
Petitioner's Exhibit 13A-B:	2016 Form 115,

¹ Hoovler submitted two packets of exhibits, each with its own numbering system. Each packet also included an unnumbered document similar to a brief.

Petitioner’s Exhibit 14A:	2016 Form 131 petition,
Petitioner’s Exhibit 15:	Excerpts from Annual Adjustments & Cyclical Reassessment, July 2014,
Petitioner’s Exhibit 16:	Excerpts from Indiana Assessors’ Association Sales Validation September 2011,
Petitioner’s Exhibit 17:	Excerpt titled <i>Change for Change’s Sake</i> ,
Petitioner’s Exhibit 18:	Excerpts from Porter County Review Findings dated April 7, 2009,
Petitioner’s Exhibit 19A-J:	Trended improved sales data report with Hoovler’s notes and Beacon data for corresponding notes,
Petitioner’s Exhibit 20:	2012-2016 chart of Clinton County Assessor’s revisions of soil type acreages,
Petitioner’s Exhibit 21:	2014 tax statement,
Petitioner’s Exhibit 22, 22A:	2016 Form 134,
Petitioner’s Exhibit 23:	2016 Summary and Comparison of parcels in sales data report,
Respondent’s Exhibit R-1:	Summary of Assessor’s exhibits/testimony,
Respondent’s Exhibit R-2:	Certified letter dated July 5, 2017 from Myers to Hoovler,
Respondent’s Exhibit R-3:	Proof of mailing for certified letter,
Respondent’s Exhibit R-4:	Fee appraisal performed by Jeffrey Wolfe,
Respondent’s Exhibit R-5:	Updated 2016 PRC with corrected land allocations.
Respondent’s Exhibit R-6:	Memorandum on 2016 Ratio Study Guidance dated January 4, 2016

7. The record also includes the following: (1) all pleadings, briefs, and documents filed in the current appeals, (2) all orders and notices issued by the Board or our ALJ, and (3) the digital recording of the hearing.

Objections

8. The Assessor made an objection to “...anything that doesn’t pertain to the 16-pay-17 appeal, that we keep this appeal within the time period that we are talking about . . .”. The Assessor did not object to any specific piece of evidence and we understand her objection to be a relevance objection. Evidence is relevant if: (1) it has any tendency to make a fact more or less probable than it would be without the evidence; and (2) the fact is of consequence in determining the action. We find the information presented meets this low burden and overrule the objection.
9. Hoovler objected to admitting the Assessor’s appraisal arguing that because the effective date of the appraisal is January 1, 2017 it is inadmissible for a 2016 appeal. We again find this to be an objection to the relevance of the exhibit. We find the appraisal meets

the low burden for relevance and admit it into evidence. *Resp't Ex. R-4; Hoover testimony.*

Burden of Proof

10. Generally, a taxpayer seeking review of an assessment must prove the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and assigns the burden of proof to the assessor where (1) the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, or (2) the taxpayer successfully appealed the prior year's assessment, and the current assessment represents an increase over what was determined in the appeal, regardless of the level of that increase. I.C. § 6-1.1-15-17.2(a), (b) and (d). If an assessor has the burden and fails to prove the assessment is correct, it reverts to the previous year's level (as last corrected by an assessing official, stipulated to, or determined by a reviewing authority) or to another amount shown by probative evidence. I.C. § 6-1.1-15-17.2(b).
11. The Assessor conceded that she bears the burden of proof. We agree and find the burden rests with the Assessor. Our determination for the 2015 assessment year is \$66,900.

Contentions

12. Summary of the Respondent's case:
 - a. The Assessor offered an appraisal prepared by Jeffrey B. Wolfe in accordance with the Uniform Standards of Professional Appraisal Practice ("USPAP"). Wolfe used the sales-comparison approach for his opinion of market value as of January 1, 2017. After making adjustments, Wolfe arrived at an opinion of \$82,000 for the entire 7-acre property and improvements. *Resp't Ex. R-4.*
 - b. Wolfe also developed a site value using a land sales analysis. In this analysis, he compared nine properties in Clinton County and developed a median and mean price per acre. He ultimately settled on a site value of \$54,600. Because the subject property is assessed as agricultural land, the Assessor subtracted the site value from Wolfe's total opinion of value to arrive at an improvements value of \$27,300. She then added this value to the current land assessments to arrive at her total requested value:

Year	Land	Improvements	Total
2016	\$39,500	\$ 27,300	\$ 66,800

- c. This value is lower than the original assessment, the PTABOA determination, and our determination for the prior year. *Resp't Ex. R-1; Myer's testimony.*

13. Summary of the Petitioner's case:
- a. Hoovler made various allegations about the conduct of Jay Morris, Dana Myers, and the Board's ALJ from her 2014 appeal as well as other general complaints about the PTABOA. She also presented a bid letter from Jay Morris to the Assessor in which Morris encouraged the Assessor to contact the Board as a reference for his company, Ad Valorem Solutions, LLC. Hoover stated that she believed this created a conflict of interest.² *Hoovler testimony; Pet'r Ex. A4.*
 - b. Hoovler contends that the Assessor incorrectly applied a trending factor to her property and, as a result, the improvements value for her property should revert to the prior year's value of \$26,300. *Hoovler testimony.*
 - c. Hoovler made the following "specific requests": (1) correct the annual trending adjustment and revert the improvements value to the previous taxing period; and (2) provide relief in the form of any and all refunds. *Hoovler testimony.*
 - d. Hoovler requested the Board issue a timeline for the Assessor make Hoovler's requested changes and to provide proof of these changes to the Board and herself. Hoovler also requested that if the proposed timeline is not met, the Board contact the DLGF so that they can institute "censure proceedings." Finally, Hoovler requested the Board recommend an immediate review of the Clinton County trending practices and procedures by the DLGF. *Hoovler testimony.*

Analysis

14. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting the property's true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. "True tax value" does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c) and (e). It is instead determined under the DLGF's rules. I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). The DLGF defines "true tax value" as "market value in use," which it in turn defines as "[t]he market value in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." MANUAL at 2.
15. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are "appropriate for determining true tax value." MANUAL at 2. In an assessment appeal, parties may offer any evidence relevant to a property's true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. *Id.* at 3; *see also Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (reiterating that a market value-in-use appraisal that complies with the Uniform Standards of Professional Appraisal Practice is the most effective method for

² Prior to this hearing, we had no knowledge of Morris's apparent use of the Board as a business reference. No member of the Board has provided a reference for either Morris, or his company, Ad Valorem Solutions, LLC. Nor does any member have any intent to do so.

rebutting the presumption that an assessment is correct). Regardless of the method used, a party must explain how her evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* For the 2016 assessment, the valuation date was January 1, 2016. I.C. § 6-1.1-4-4.5(f).

16. The subject property is a mixed agricultural-residential property making the assessment multifaceted. The DLGF promulgated guidelines for assessing agricultural land using distinctive factors, such as soil productivity, that do not apply to other types of land. I.C. § 6-1.1-4-13. The DLGF determines a statewide base rate by taking a rolling average of capitalized net income from agricultural land. 2011 REAL PROPERTY ASSESSMENT GUIDELINES, Ch. 2 at 77-78; I.C. § 6-1.1-4- 4.5(e). Assessors then adjust that base rate according to soil productivity factors. They also classify agricultural land into various types. Depending on the classification, assessors may then apply influence factors in predetermined amounts. *See* 2011 GUIDELINES, Ch. 2 at 85-96, 98-100. Thus, for agricultural land, true tax value is the amount determined by applying the Guidelines.
17. As part of determining true tax value, the Guidelines carve out one-acre per dwelling on agricultural property, which is classified as an agricultural homesite. 2011 REAL PROPERTY ASSESSMENT GUIDELINES, Ch. 2 at 93. The homesite makes up a portion of a property's land value. But unlike other subtypes of agricultural land, a homesite's true tax value cannot be established on appeal by applying the Guidelines. Instead, a party needs to offer probative market-based evidence.
18. The Assessor's requested value, \$66,800, is lower than our decision from the prior year, \$66,900. Thus, we find the Assessor conceded that she could not meet her burden of proof.
19. This does not end our analysis because Hoovler sought a lower value than the prior year's assessment. Generally, a party may not make a case for changing an assessment simply by showing how regulations should have been applied. *Eckerling* at 678. Instead, a party must offer market-based evidence. *Id.* Here, Hoovler criticized the Assessor's application of trending, but made no attempt to show the correct market value-in-use. This is precisely the principle described in *Eckerling*. Hoovler cannot succeed merely by showing how the regulations should have been applied. Instead, she needed to show probative market-based evidence for the improvements and one acre homesite. Therefore, we find that Hoovler failed to make a case for lowering the assessment further than the Assessor's requested value. We note that Hoovler made no argument that the agricultural portion of the land was incorrectly assessed.
20. Hoovler also requested that the Board calculate the refunds she is owed, order the Assessor to provide those refunds, and order an investigation of the Clinton County Assessor's office, set a timeline for the Assessor to implement assessment changes, and require the Assessor to provide proof to the taxpayer and the Board regarding the changes. The Board is a creation of the Indiana Legislature, and it only has those powers conferred by statute. *Whetzel v. Dep't of Local Gov't Finance*, 761 N.E.2d 904 (Ind. Tax

Ct. 2002). Hoovler failed to cite to any legal authority for our purported duty to calculate refunds or to ensure the Assessor takes action on refunds. Indiana Code § 6-1.1-26-2.1 explains the requirements for obtaining a refund. Thus, these requests are denied. Similarly, Hoovler failed to show any authority for the Board to act on her other requests. Those requests are all also denied.

21. Next, Hoovler requested that we issue a timeline for the Assessor to implement the assessment changes, and to require the Assessor to provide proof to the taxpayer and us. Hoovler failed to cite to any statutory authority for her request. As before, the Board is a creation of the legislature with powers limited by statute. Therefore, we deny her request.
22. Finally, we note that Hoovler made a number of other allegations regarding the conduct of the Assessor, Morris, the PTABOA, and the administrative law judge assigned to her 2014 appeal. None of these allegations are at all relevant to the 2016 assessment of the property and we disregard them.

FINAL DETERMINATION

23. The Assessor conceded that she could not meet her burden of proof. Hoovler requested a lower value, but failed to make a prima facie case supporting that value. Therefore, we order the 2016 assessment reduced to the Assessor's conceded value of \$66,800.

ISSUED: October 9, 2018

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.